

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF HERRINGTON HAVEN SEWER)	
SYSTEM, INC. TO TRANSFER OWNERSHIP)	CASE NO. 95-425
OR CONTROL)	

O R D E R

Herrington Haven Wastewater Company, Inc. ("Herrington Haven Wastewater") has applied for Commission approval of its proposed acquisition of the sewage treatment facilities of Herrington Haven Sewer System.

Having considered the application and being otherwise sufficiently advised, the Commission finds that:

1. Roy Franklin, doing business as Herrington Haven Sewer System and as Franklin Sewer Company, owns the subdivision treatment facility plant providing service for compensation to the residents of the Herrington Haven Subdivision of Garrard County, Kentucky.

2. Herrington Haven Sewer System's subdivision treatment facility plant has a design capacity of less than 50,000 gallons of wastewater per day.

3. Herrington Haven Sewer System's treatment plant is classified as a Class I Wastewater Treatment Plant. See 401 KAR 5:010, Section 8.

4. On or before September 1, 1991, Roy Franklin transferred ownership of Herrington Haven Sewer System and its Kentucky

Pollutant Discharge Elimination System Permit to Tony Browning. Prior Commission approval of this transfer was not obtained.

5. Mr. Browning failed to operate the sewage treatment facilities in accordance with Commission regulations or with Natural Resources and Environmental Protection Cabinet regulations.¹

6. On February 9, 1995, Mr. Franklin, doing business as Franklin Sewer Company, again assumed ownership and control of Herrington Haven Sewer System.

7. Mr. Franklin has agreed to transfer the sewage treatment facilities to Herrington Haven Wastewater.

8. Herrington Haven Wastewater is a corporation organized under the laws of Kentucky.

9. Herrington Haven Wastewater employs Melvin Price as its plant operator. The Kentucky Board of Certification of Wastewater System Operators has certified Mr. Price as a Class I wastewater treatment plant operator.

10. Herrington Haven Wastewater assumed responsibility for operating the Herrington Haven Sewer System treatment facilities on July 1, 1995.

¹ See Case No. 93-051, Tony Browning D/B/A Herrington Haven Sewer System, Inc. - Alleged Failure to Comply with KRS 278.230(3) (May 24, 1993); Case No. 94-375, Tony Browning D/B/A Herrington Haven Sewer System - Alleged Failure to Comply with KRS 278.140 and 278.230(3) (Sept. 1, 1995). See also Natural Resources and Environmental Protection Cabinet v. Tony Browning and Roy C. Franklin, File No. DOW.-19702-114 (Ky. NREPC Mar. 27, 1995). See also Memorandum from Gerald Wuetcher to Case Record of December 19, 1995.

11. Herrington Haven Wastewater has the financial, managerial, and technical abilities to provide reasonable utility service to the persons who currently are served by the sewage treatment facilities.

12. Herrington Haven Wastewater has been unable to obtain a third party beneficiary agreement as required by 807 KAR 5:071, Section 3(1)(a). In light of the treatment facilities' prior condition and Herrington Haven Wastewater's efforts to bring the facilities into compliance with regulatory requirements, Herrington Haven Wastewater should be granted a deviation from 807 KAR 5:071, 3(1)(a).

IT IS THEREFORE ORDERED that:

1. The transfer of Herrington Haven Sewer Systems, Inc.'s sewage treatment facilities to Herrington Haven Wastewater is approved.

2. Within 30 days of the transfer of legal title, Herrington Haven Wastewater shall notify the Commission of that event.

3. Within 30 days of the transfer of legal title, Herrington Haven Wastewater shall file with the Commission the journal entries recording the transfer of title.

4. Herrington Haven Sewer Systems, Inc. shall file an annual report for 1995 which reflects its operations until the transfer of its sewage treatment facilities to Herrington Haven Wastewater.

5. Herrington Haven Wastewater is granted a deviation from Commission Regulation 807 KAR 5:071, Section 3(1)(a), and shall not

be required to present evidence of a third party beneficiary agreement.

Done at Frankfort, Kentucky, this 21st day of December, 1995.

PUBLIC SERVICE COMMISSION

Amelia Davis Hutt
Chairman

Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills
Executive Director